

COLLECTING COURT-ORDERED RESTITUTION



OFFICE OF JUSTICE PROGRAMS
MINNESOTA DEPARTMENT OF PUBLIC SAFETY

Restitution is the money a judge orders a juvenile or adult offender to pay to the victim as part of the criminal sentence. It is based on the victim's losses resulting from the crime and the offender's ability to pay.

RESTITUTION PAYMENT SUPERVISION

Typically, an offender will be ordered to pay restitution according to a payment schedule. The offender's probation officer is responsible for creating the payment schedule and monitoring the payments made to victims. If the offender is not put on supervised probation, the court administrator or another official may set up the payment schedule. If victims do not receive scheduled payments, they should contact the offender's probation officer or the court administrator.

If no payment schedule is ordered, then restitution is due on the date of sentencing. In some counties, the restitution order will be sent to a contracted collection agency for recovery. No collection fees will be taken away from any restitution amount recovered through this process.

If the offender is in prison, victims should contact the court administrator or the Victim Assistance Program at the Minnesota Department of Corrections (800-657-3830) to make sure the restitution order has been sent to the correctional facility. State correctional facilities send restitution payments to victims on various schedules. Some distribute payments monthly or quarterly, while others may pay restitution on a yearly basis. It is important that victims inform the court administrator and correctional facility of any address changes.

IF THE OFFENDER DOES NOT PAY

If the offender has not paid restitution according to the payment schedule and is on probation, a victim has the right to request a probation review hearing by contacting the probation officer. The probation officer can request a hearing at any time up until 60 days before the end of the offender's probation. At the hearing, the judge may extend the offender's probation to allow more time for repayment.

If the offender has been released from prison, he or she can also be held responsible for payment while on supervised release.

OTHER OPTIONS FOR REPAYMENT

The fact that restitution has been ordered by the court does not mean the offender will pay it. These are some of the options to assist victims in recovering out-of-pocket expenses related to the crime.

Crime Victim Reparations

Reparations refers to financial assistance from a state program available to victims of violent crimes. Reparations does not pay for personal property losses. Claim forms are available from the Minnesota Crime Victims Reparations Board at 651-201-7300 or the Office of Justice Programs Website at ojp.dps.mn.gov. There is no application fee. Eligible victims can receive compensation under the reparations program even if no charges have been filed in the case.

Civil Judgment

Victims can also try to collect restitution through the civil court. To get the restitution order "docketed," or entered as a civil judgment, the victim must file an *Affidavit of Identification of Judgment Debtor* with the court. The civil judgment creates a lien against the offender/debtor that will show up on credit checks and real estate title searches until the restitution is paid. The judgment is enforceable for 10 years and can be renewed.

There is no filing fee for victims named in the restitution order. Once a civil judgment is filed, information about the victim becomes public.

Victims can use the tools available through the civil courts to collect on this judgment, for example, garnishment of wages or bank accounts. Victims who do not know where the offender works or banks can contact the court administrator to file a *Request for Order for Disclosure* to obtain the offender's financial information. A *Writ of Execution*, also obtained from the court administrator, is used to seize assets to repay the debt. The local sheriff executes the *Writ of Execution* for a fee. Some property may be seized in this way, but many items are exempt from seizure.

Information and forms regarding this process are available from the local court administrator or on the Minnesota Judicial Branch Website at www.mncourts.gov.

Revenue Recapture

Some counties send outstanding restitution claims to the Minnesota Department of Revenue for "Revenue Recapture." Through this process, unpaid restitution can be deducted from funds owed to the defendant, such as income tax refunds, property tax refunds, renter's rebates, political contribution refunds, and lottery winnings over \$1,000. The claim must be made through a state-authorized agency, for example, the district court or corrections. A charge is deducted for each payment received.

Private Attorney/Collection Agency

Victims can attempt to collect restitution by hiring a private attorney or contracting with a collection agency. However, expenses associated with these options vary, and the cost involved may far outweigh the benefit.

If the offender is a juvenile, the offender's parents can be held accountable for restitution up to \$1,000. A separate civil action, usually handled in conciliation court or "small claims court," must be brought against the parents. Filing or court fees are associated with this recovery process.

Information about filing an action in small claims court is available from the court administrator or on the Minnesota Judicial Branch Website at www.mncourts.gov.

COMMON QUESTIONS ABOUT RESTITUTION

Does the offender make restitution payments directly to the victim? No. The offender makes restitution payments directly to the court administrator. The court administrator will then issue and mail a check to the victim. This process may take several weeks.

Can the offender ask the court to change the restitution order? The offender may challenge a restitution order by requesting a hearing. The victim may be asked to provide additional documentation to verify the expenses included in the restitution order.

Can the restitution order be changed to include additional unexpected losses? The court can change or issue a restitution order after sentencing or disposition if (1) the offender is still under the court's jurisdiction, (2) the victim has submitted sufficient evidence of the right to restitution, and (3) the true extent of the victim's losses were not known at the time of the sentencing, dispositional, or restitution hearing. In practice, however, it can be difficult to change an order, so victims are encouraged to identify their losses and submit their documentation before sentencing or disposition.

Does interest accrue on the restitution debt? Interest does not accrue on restitution ordered in the criminal case. However, once the restitution order has been entered as a civil judgment, interest will be computed by the court administrator on the unpaid balance of the civil judgment and added to the balance until it is paid.

ABOUT RESTITUTION

Restitution is the money a judge orders a juvenile or adult offender to pay to the victim as part of the criminal sentence. It is based on the victim's losses resulting from the crime and the offender's ability to pay.

The victim's losses related to the crime may include: funeral expenses; medical, dental or therapy costs; lost wages; property losses; and the cost of repairing damaged property.

Although restitution may be part of a court-ordered sentence or disposition, victims are not guaranteed payment. Collecting restitution can be an unfortunate and frustrating ordeal for victims who are attempting to recover emotionally, physically, and financially in the aftermath of a crime. *Collecting Court-Ordered Restitution* is offered to explain the process for collecting restitution and provide some additional options for getting compensated for the losses related to the crime.

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